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KENNY HOPF

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE BRANCH**

KENNY HOPF,)	Case No.:
)	
Plaintiff,)	COMPLAINT AND DEMAND FOR
)	JURY TRIAL
v.)	(Unlawful Debt Collection Practices)
)	
CHASE BANK USA, N.A.,)	
)	
Defendant.)	
)	

KENNY HOPF (Plaintiff), by his attorneys, KROHN & MOSS, LTD., alleges the following against CHASE BANK USA, N.A. (Defendant):

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on Telephone Consumer Protection Act, 28 U.S.C. § 227 *et seq.* (TCPA).
2. Count II of the Plaintiff's Complaint is based on Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code § 1788 *et seq.* (RFDCPA).

JURISDICTION AND VENUE

3. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1367 grants this court supplemental jurisdiction over the state claims contained therein.
4. Defendant does business in the state of California thereby establishing personal jurisdiction.
5. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

6. Plaintiff is a natural person residing in Gilroy, Santa Clara County, California.
7. Defendant is a business entity with offices located throughout the country, including an office in Wilmington, Delaware.
8. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

9. Defendant constantly and continuously places collection calls to Plaintiff's cellular telephone seeking and demanding payment for an alleged debt.
10. Defendant places collection calls from telephone numbers, including, but not limited to, 800-555-0433.
11. Defendant places collection calls to Plaintiff's cellular telephone at phone number 408-430-42XX.
12. Defendant places two (2) to four (4) calls to Plaintiff's cellular telephone on a daily basis.
13. Per its prior business practices, each of these collection calls were placed using an automatic telephone dialing system.
14. Plaintiff closed his Chase account over two years ago. Since then Plaintiff has acquired

1 a new cellular telephone number.

2 15. Plaintiff did not at any time provide Defendant with his new cellular telephone number,
3 nor did Plaintiff at any time provide consent for Defendant to place calls to his new
4 cellular telephone using an automated telephone dialing system.

5 16. Despite this, Defendant placed calls to Plaintiff on his new cellular number at the
6 following approximate dates and times:

- 7 • February 10, 2014: six (6) calls at 12:52 p.m., 3:32 p.m., 4:51 p.m., 6:00 p.m.,
8 7:07 p.m. and 8:11 p.m.
- 9 • February 12, 2014: five (5) calls at 12:56 p.m., 5:34 p.m., 5:48 p.m., 7:03 p.m.
10 and 8:12 p.m.
- 11 • February 14, 2014: five (5) calls at 12:21 p.m., 4:57 p.m., 6:03 p.m., 7:14 p.m.
12 and 8:19 p.m.
- 13 • February 17, 2014: six (6) calls at 1:15 p.m., 3:29 p.m., 4:35 p.m., 5:41 p.m.,
14 6:47 p.m. and 7:01 p.m.

15 17. Defendant placed at least twenty-two (22) automated calls to Plaintiff without his
16 consent to do so.

17 **COUNT I**

18 **DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTIONS ACT**

19 18. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA,
20 entitling Plaintiff to an award of \$500.00 in statutory damages for each and every
21 violation pursuant to 47 U.S.C. § 227(b)(3)(B).

22 19. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or
23 willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory
24 damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47
25 U.S.C. § 227(b)(3)(C).

Wherefore, Plaintiff, KENNY HOPF, respectfully requests judgment be entered against Defendant, CHASE BANK USA, N.A. for the following:

20. Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B);
21. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);
22. All court costs, witness fees and other fees incurred; and
23. Any other relief that this Honorable Court deems appropriate.

COUNT II
DEFENDANT VIOLATED THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT

24. Plaintiff repeats and realleges all of the allegations in Count I of Plaintiff's Complaint as the allegations in Count II of Plaintiff's Complaint.

25. Defendant violated the RFDCPA based on the following:

- a. Defendant violated § 1788.11(d) of the RFDCPA by causing a telephone to ring repeatedly or continuously to annoy the person called;
- b. Defendant violated § 1788.11(e) of the RFDCPA by communicating with Plaintiff with such frequency as to be unreasonable and to constitute a harassment to Plaintiff.
- c. Defendant violated § 1788.17 of the RFDCPA by failing to comply with the Fair Debt Collection Practices, Act, 15 U.S.C. § 1692 *et seq.*, to wit:
 1. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress, or abuse Plaintiff;
 2. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring repeatedly or continuously with intent to annoy, harass, or abuse Plaintiff.

1 WHEREFORE, Plaintiff, KENNY HOPF, respectfully requests judgment be entered
2 against Defendant, CHASE BANK USA, N.A. for the following:

3 26. Statutory damages of \$1,000.00 pursuant to the Rosenthal Fair Debt Collection
4 Practices Act, Cal. Civ. Code §1788.30(b),

5 27. Costs and reasonable attorneys' fees pursuant to the Rosenthal Fair Debt Collection
6 Practices Act, Cal. Civ Code § 1788.30(c), and

7 28. Any other relief that this Honorable Court deems appropriate.

8
9 DATED: April 7, 2014

RESPECTFULLY SUBMITTED,
KROHN & MOSS, LTD.

10
11 By: /s/ Ryan Lee
12 Ryan Lee
13 Attorney for Plaintiff
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15 **DEMAND FOR JURY TRIAL**

16 PLEASE TAKE NOTICE that Plaintiff, KENNY HOPF, demands a jury trial in this
17 case.
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